

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE VIVEK RUSIA**

ON THE 23rd OF AUGUST, 2023

WRIT PETITION No. 13175 of 2013

BETWEEN:-

- HEMANTRAO AND 16 ORS. S/O RAMCHANDRARAO, AGED ABOUT 41
1. YEARS, OCCUPATION: SERVICE 9/16, EWSH RISHI NAGAR, UJJAIN
(MADHYA PRADESH)
- ASHOK S/O SIDDHNATH, AGED ABOUT 44 YEARS, OCCUPATION:
2. ZILA SAHAKARI KENDRIAYA BANK MARYADIT, BRANCH
TARANA, UJJAIN M.P UJJAIN M.P (MADHYA PRADESH)
- MANGUSINGH S/O NAHARSINGH, AGED ABOUT 44 YEARS,
3. OCCUPATION: SERVICE MALI MOHALLA, POST RUNIJA, TEHSIL-
BARNAGAR, UJJAIN M.P (MADHYA PRADESH)
- NARESH SHRIVASTAVA S/O MOTI LAL SHRIVASTAVA, AGED ABOUT
4. 48 YEARS, OCCUPATION: SERVICE 93, NEAR ARYA SAMAJ MANDIR,
UJJAIN M.P (MADHYA PRADESH)
- RAJESH YADAV S/O RATANLAL YADAV, AGED ABOUT 44 YEARS,
5. OCCUPATION: SERVICE 52/EWSG RISHI NAGAR, UJJAIN M.P
(MADHYA PRADESH)
- JAGDISHSINGH S/O BHANWAR SINGH, AGED ABOUT 46 YEARS,
6. OCCUPATION: SERVICE VILLAGE-MANGROLA, POST CHINTAMAN
JAWASIYA, UJJAIN M.P (MADHYA PRADESH)
- ASLAM S/O SAIMAN, AGED ABOUT 45 YEARS, OCCUPATION:
7. SERVICE 14/21, EWS, VED NAGAR, UJJAIN M.P (MADHYA PRADESH)
- PRAKASH PATIDAR S/O ANOKHILAL PATIDAR, AGED ABOUT 44
8. YEARS, OCCUPATION: SERVICE VILLAGE-KHARSODKALA,
POST & TEHSIL BARNAGAR, UJJAIN M.P (MADHYA PRADESH)
9. ANIL RATHORE S/O NARAYAN PRASAD RATHORE, AGED ABOUT 48
YEARS, OCCUPATION: SERVICE 108, BEGAMPURA, UJJAIN M.P

(MADHYA PRADESH)

**TARACHAND AHUJA S/O CHETURAM AHUJA, AGED ABOUT 45
10. YEARS, OCCUPATION: SERVICE 44/2 SHASTRI NAGAR STREET NO.2,
UJJAIN M.P (MADHYA PRADESH)**

**ARUN JAIN S/O BABULAL JAIN , AGED ABOUT 48 YEARS,
11. OCCUPATION: SERVICE 241,AANGRE KA BADA, OPPOSITE TIWARI
GARANGE,UJJAIN M.P (MADHYA PRADESH)**

**SHAKIL MOHAMMAD S/O SADAR MOHAMMAD, AGED ABOUT 53
12. YEARS, OCCUPATION: SERVICE IMLIBAGH, TEHSIL-TARANA,
UJJAIN M.P (MADHYA PRADESH)**

**MAHESH ARYA S/O SURAJMAL ARYA, AGED ABOUT 52 YEARS,
13. OCCUPATION: SERVICE MAHAVEER NAGAR, PIPLINAKA
CHOURAHA, UJJAIN M.P (MADHYA PRADESH)**

**RAJKUMAR GUPTA S/O MATAPRASAD GUPTA, AGED ABOUT 46
14. YEARS, OCCUPATION: SERVICE ZILA SAHKARI KENDRIYA BANK
MARYADIT, BRANCH GHATIYA, UJJAIN M.P (MADHYA PRADESH)**

**RAMESH KASHYAP S/O PARAMANAND KASHYAP, AGED ABOUT 50
15. YEARS, OCCUPATION: SERVICE 14,BHATGALI, BAHADURGANJ
UJJAIN M.P (MADHYA PRADESH)**

**GANPAT SHARMA S/O SHANKARLAL SHARMA, AGED ABOUT 51
16. YEARS, OCCUPATION: SERVICE VILLAGE-KHEDA KHAJURIYA
POST &TEHSIL MEHIDPUR,UJJAIN M.P (MADHYA PRADESH)**

**RAMNARAYAN BHADORIYA S/O MARYAD SINGH, AGED ABOUT 58
17. YEARS, OCCUPATION: SERVICE 9/MT SETHI NAGAR, UJJAIN M.P
(MADHYA PRADESH)**

.....PETITIONER

(BY SHRI BALDEEP SINGH GANDHI, ADVOCATE)

AND

**1. PRINCIPAL SECRETARY STATE OF M.P. GENERAL ADMINISTRATION
DEPARTMENT AND 2 ORS. GOVT. BHOPAL (MADHYA PRADESH)**

**COMMISSIONER, COOPERATIVE AND REGISTRAR,COOPERATIVE
2. SOCIETIES,BHOPAL M.P VINDHYACHAL BHAWAN,BHOPAL M.P
(MADHYA PRADESH)**

**MANAGING DIRECTOR, ZILA SAHAKARI KENDRIYA BANK
3. MARYADIT,UJJAIN M.P HAVING ITS HEAD AT 84, TILAK MARG, NAI
SADAK,UJJAIN M.P (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI AMIT RAWAL, GOVERNMENT ADVOCATE)

This petition coming on for order this day, the court passed the following:

O R D E R

The petitioners have approached this Court seeking regularization into the service. The petitioners are the residents of District – Ujjain. They were appointed as daily wagers by respondent No.3 between 01.04.1990 to 22.11.1996 on the post of Peon and Guard which is a Class – IV post. There is no dispute that they are continuously working since the date of initial engagement.

02. In light of the judgment passed by the Apex Court in the case of ***State of Karnataka v/s Uma Devi & Others reported in AIR 2006 SC 1806***, the State Government issued a Circular dated 16.05.2007 directing all the Government Department / Corporation / Local Body to constitute a screening committee for consideration of the case of daily rated employee for regularization who are in service for more than 10 years. Copy of circulars dated 16.05.2007 and 06.09.2008 are filed as Annexures-P/2 & P/3. In compliance of the aforesaid circulars, respondent No.2 constituted a Screening Committee. The Committee on its meeting convened on 30.07.2009 examined the case of the petitioners along with others and recommended for regularization. Despite the aforesaid recommendation and availability of vacant posts as per staffing pattern (Annexures-P/7 to P/10), the respondents rejected the claim of the petitioners for regularization for want of vacant post.

03. Similarly placed Class – III employees who were working as daily wagers approached this Court by way of W.P. No.7202 of 2011(S). The writ petition was allowed by this Court directing the respondent No.3 / Bank to regularize them into the service. The petitioners approached this Court when their claim for regularization was rejected.

04. The respondents filed a reply in which they are not disputing the engagement of the petitioners as daily wagers, their continuous work since last 10 years and denial of regularization for want of vacant post. However, in paragraph – 5.9 of the return, the respondents have given the details of vacant posts, according to which only 16 posts are available out of which 08 posts are reserved for SC category candidates.

05. This return was filed in the year 2014, now more than 9 years have been passed and most of the posts are vacant. Even no recruitment has taken place during pendency of this petition. If 16 posts were vacant at that time, at least 16 petitioners could have been regularized as per their seniority list but none of the petitioners were considered for regularization. As per staffing pattern (Annexures-P/7 to P/10), posts were vacant and there is a recommendation of Screening Committee also. Therefore, it is directed that the petitioners be regularized and taken back into the service. The entire exercise be completed with a period of 60 days from the date of receipt of certified copy of this order and compliance report be communicated to this Court.

With the aforesaid, Writ Petition stands allowed.

(VIVEK RUSIA)
J U D G E

Ravi

Digitally signed by RAVI PRAKASH
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